



City of Seattle

---

Gregory J. Nickels, Mayor  
**Department of Planning and Development**  
D. M. Sugimura, Director

**CITY OF SEATTLE**  
**ANALYSIS AND DECISION OF THE DIRECTOR OF**  
**THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 2501736  
**Applicant Name:** Eric Hogeboom for Jerry Moos  
**Address of Proposal:** 933 North Northlake Way (Houseboat #2) (KCA#394)

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit for future construction of a two-story, 1,064 square foot floating home. Project includes demolition of existing floating home.

The following Master Use Permit components are required:

**Shoreline Substantial Development Permit** - for the future construction of a floating home in an Urban Stable (US) Shoreline Environment - (SMC 23.60.630)

**SEPA - Environmental Determination** - (Seattle Municipal Code (SMC) 25.05)

**SEPA DETERMINATION:** ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or,  
involving another agency with jurisdiction.

**BACKGROUND DATA**

**Existing Conditions**

The subject site is located south of North Northlake Way on the north shore of Lake Union in an Urban Stable (US) shoreline environment zoned Commercial 2 (C2-30'). The site, known as Lee's Moorings, consists of fifteen (15) floating home moorages accessed by one (1) floating pedestrian dock. The dry land area north of the over-water portion of the development is developed with a paved surface parking area.

The floating home moorage sites are arranged in an eastern row of nine (9) floating homes and a western row of six (6) floating homes. The subject floating home is the second site from the landslide in the eastern row. The proposed work would only occur on the existing home float, which measures approximately 22'-7" x 33'-5" + 20' x 3'-4", with a total area of approximately 821.22 square feet (sq. ft.). The subject floating home moorage is nonconforming with the General Standards set forth for conforming floating home moorages.

### Area Development

As previously mentioned, the site is comprised of fifteen (15) floating home moorages, distributed on either side of a floating dock. Over-water development to the north and south of the subject site consists of nonconforming floating home moorages. To the west is a mixture of floating homes and boat moorages and to the east are additional boat moorages. Development in this area consists of water-related residential uses.

The landward side (north) of North Northlake way is zoned Commercial (C1-85), and is developed with commercial businesses.

### Proposal

The applicant proposes to demolish an existing 420 sq. ft. floating home and construct a two-story 1,063.6 sq. ft. floating home with a 111.99 sq. ft. roof deck above a portion of the 1<sup>st</sup> story, a 25.66 sq. ft. deck/spiral staircase from the 2<sup>nd</sup> floor level that will provide access to a 348.75 sq. ft. rooftop deck. The proposed structure meets the maximum height requirement of 18' measured from the water's surface to the highest point of the structure's roof. Open railings for the rooftop deck and a mechanical vent are proposed to be built approximately 3' above the roof.

### Public Comment

The public comment period for this project ended May 13, 2005. During the public comment period, DPD received no written comments regarding this proposal.

## **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

### Substantial Development Permit Required

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC.*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

### **A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW**

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60.

Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposal is subject to the Shoreline Policies of SMC 23.60.004 because the site is located within the shoreline district and the cost of the project exceeds \$5000. The floating home moorage is located on privately owned premises, namely the Lee's Moorings, a Condominium-unit #2, King County Assessors, tax identification #425300-8888.

The proposed floating home has been designed to ensure minimum impact to the public health, land, and the waters of the state, and their aquatic life. The layout of the floating home will not interfere with the public rights of navigation and corollary rights, thus providing for the management of the shorelines by planning for and fostering all reasonable and appropriate uses. Therefore, the subject application is consistent with the procedures outlined in RCW 90.58.

**B. THE REGULATIONS OF CHAPTER 23.60**

Pursuant to SMC 23.60.064C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone and; 2) meets all applicable development standards of both the shoreline environment and underlying zone and; 3) satisfies the criteria for a shoreline variance, conditional use, and/or special use permits, if required.

**SMC 23.60.004 - Shoreline Policies**

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district.

The policies support and encourage the establishment of water dependent uses. Floating homes, because of their historic role in Seattle, are designated as a water dependent use. The increase of floating home moorages or the increase in use of the shoreline or water area by floating homes, however, is not necessarily encouraged. The intent is to recognize the existing floating home community in Lake Union and Portage Bay, while protecting natural areas, preserving public access to the shoreline, and preventing the displacement of water dependent commercial and manufacturing uses by floating homes. Areas with substantial concentrations of existing floating homes shall be given a designation that preserves residential uses. The site is located in an area designated as Urban Stable, the purpose of which is to provide opportunities for substantial numbers of people to enjoy the shorelines by encouraging water-dependent recreational uses and by permitting non-water dependent commercial uses if they provide substantial public access and other public benefits; preserve and enhance views of the water from adjacent streets and upland

residential uses; and to support water-dependent uses by providing services such as marine related retail and moorage. Floating home moorages are among those that are identified as “water-dependent uses”.

### Development Standards

The proposal to reconstruct an existing over-water single family residence is permitted outright in SMC 23.60.600 governing the US shoreline environment. The proposed action is therefore subject to:

1. *the general development standards for all shoreline environments (SSMP 23.60.152);*
2. *the development standards for uses in the US environment (SSMP 23.60.600);*
3. *the development standards for nonconforming floating homes (SSMP 23.60.196); as well as*
4. *the development standards for Commercial 2 zones (SMC 23.47).*

#### 1. General Development Standards for all Shoreline Environments (SSMP 23.60.152)

These general standards apply to all uses in the shoreline environments. They require that all shoreline activity be designed, constructed, and operated in an environmentally sound manner consistent with the Shoreline Master Program and with best management practices for the specific use or activity, in order to prevent degradation of land or water.

General development standards (SSMP 23.60.152) state that Best Management Practices shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land or water. The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. Therefore, approval of the substantial development permit will be conditioned to require application of construction best management practices (BMPs).

The proposed project’s design is consistent with the requirements of this section. To ensure that these standards are conformed to, the proponent will be required to notify contractors and subcontractors of these requirements.

#### 2. Development Standards for UR Shoreline Environments (SSMP 23.60.600)

The development standards set forth in the Urban Stable Shoreline Environment relate to critical habitat protection, height, lot coverage, view corridors and public access. The subject site, however, is nonconforming and therefore subject to the development standards set forth in the specific standards for nonconforming floating home moorages. Please refer to the following section.

#### 3. Development Standards for Non-conforming Floating Home Moorages (SSMP 23.60.196)

The development standards set forth in the Urban Stable Shoreline Environment relate to float area, height, setbacks, open water, site area and view corridors. There are two sets of development standards for floating homes; conforming and nonconforming moorages. The subject moorage is partially conforming (all those floats to the west of the dock are conforming) and partially nonconforming (all those floats to the east of the dock). The subject float is to the east of the dock and is therefore nonconforming.

The remodeling, replacement, or rebuilding of a nonconforming floating home moorage is permitted subject to the provisions set forth in SMC 23.60.196.C. The floating home moorage is

located on privately owned premises (SMC 23.60.196.A2). The existing views of the water from other moorage tenants will not be blocked (SMC 23.60.196.A3). This floating home moorage site is considered pre-existing for the purposes of the Seattle Shoreline Master Program because it has an assigned King County Assessor's (KCA) number (*KCA #394*). The KCA established it as a pre-existing use at the established moorage in Lake Union as of the effective date of Chapter (SMC 23.60.196.A4). A moorage plan was submitted with this application and is on file with the Department of Planning and Development (SMC 23.60.196.A6).

**Nonconforming Floating Home Requirements:**

	<b>Code Provision</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
<b>Float Area</b>	23.60.196.C1.a	Float area shall not be increased.	821.22 sq. ft	821.22 sq. ft.
<b>Height</b>	23.60.196.C1.b	18 feet max height from water level	N/A	18'-0" max. for new construction.
<b>Setback</b>	23.60.196.C1.c	6 feet min distance between subject home and adjacent walls	N/A	9'-4" to the south 6'-9" to the north
<b>Setback</b>	23.60.196.C1.d	3 feet min. distance between subject wall and site line	N/A	Approx. 3'-0" from the subject wall to the site line.
<b>Open Water</b>	23.60.196.C1.e	No part of home may be further extended over water, beyond float edge.	No portion of the structure extends beyond float edge.	No portion of the proposed structure extends beyond float edge.
<b>Site Area</b>	23.60.196.C1.f	Accessory floats	N/A	N/A
<b>View Corridor</b>	23.60.196.C1.g	Cannot increase view corridor non-conformity	Cannot increase view corridor non-conformity	Will not increase view corridor non-conformity.

The proposed new home will be constructed on the existing float and will not increase the area of the float within the moorage, thereby not increasing the overall coverage for the moorage dock. No additional over-water coverage is proposed for this floating home and no part of the floating home will be extended further over-water beyond the size of the existing float. The total height of the floating home will continue to be no greater than the maximum 18 feet allowed from the water's surface. All of the proposed setbacks from the adjacent walls and floats satisfy the standards for the nonconforming floating home structures. The view corridors will not increase the extent of nonconformity.

Some of the existing floating homes (including the subject float) at this moorage do not have designated required off-street parking spaces because they pre-date code-required parking. Therefore, no off-street parking will be required for this project, although a parking lot intended for the houseboat residents is located nearby.

The proposed project is consistent with the development standards for nonconforming structures in the US shoreline environment and does not increase the extent of nonconformity. Therefore, the proposed project is consistent with the standards for the US shoreline environment.

4. General Development Standards for Commercial Zone Uses (23.47 SMC)

SMC 23.47.038 states that nonconforming structures may be renovated, but shall not increase the extent of nonconformity. The proposed structure will not increase the extent of nonconformity, as it will be fully contained within the existing subject float. Therefore, the commercial development standards for conforming structures shall not be applied to the proposed action.

**C. THE PROVISIONS OF CHAPTER 173-27 WAC**

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local government s, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of the SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Summary

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC and RCW and with the regulations of Chapter 23.60 of the Seattle Shoreline Master Program.

The project as proposed meets the specific standards for development in the US environment. It also conforms to the general development standards, as well as the requirements of the underlying zone, therefore should be approved.

Pursuant to the Director's authority under Seattle's Shoreline Master Program, to ensure that development proposals are consistent with the polices and procedures, and conforms with specific development standards of the underlying zones, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, the proposal, as conditioned below, is hereby approved.

**DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

**ANALYSIS - SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated April 6, 2005. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SSMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states in part: *"where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,"* subject to some limitations. Under such limitations/circumstances (SSMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

#### Construction Noise Impacts

The SEPA Noise Policy (SMC 25.05.675B) lists mitigation measures for construction noise impacts. It is our conclusion that limiting hours of construction beyond the requirement of the Noise Ordinance is necessary to mitigate impacts to surrounding properties that will result from the proposal. This is due to the intense density of residential units in the area and the close proximity of these structures to the proposal site. The proposal is, therefore, conditioned to limit construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m. After the structure is enclosed, interior construction may be done at other times with the written approval of the Land Use Planner.

#### Bulk and Scale

The total height of the proposed floating home at 18' will be the maximum allowed from the water surface. There is adequate separation between the floating home and the floating homes to the north, south and west, so solar access to those sites will not be obstructed. The appearance of bulk of the floating home will be reduced by design elements incorporated into the structure. There are a number of existing floating homes in the vicinity of a similar size and scale as the proposal. For these reasons, the proposed floating home at KCA #394 will not be out of scale with other floating homes in the vicinity, and no adverse impacts are expected related to bulk and scale.

#### Underwater Habitat

No disturbance of the lake bed sediments is expected since all work will be done above water. There is potential for debris to enter the water during construction, so care will have to be taken to prevent this from occurring in order to protect the water quality of Lake Union, materials and construction methods to prevent toxic materials, petrochemicals, and other pollutants from entering the lake should be used during and after construction. The least toxic wood preservatives that are appropriate for fresh water should be used. Any construction debris shall be promptly removed from the lake. In conjunction with the requirements set forth by SSMP 23.60.152, the proposal is thus conditions to mitigate potential impacts to water quality and habitat.

### **DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(c).

- [ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

### **SEPA AND SHORELINE CONDITIONS**

The following conditions to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

The owner(s) and/or responsible party(s) shall:

#### **Prior to Issuance of a Construction Permit**

1. Develop a Best Management Practices (BMP) Plan to be included on the plan set. The BMP plan shall indicate how construction will take place to ensure that no debris or deleterious material shall enter the water through the duration of the proposed work.

#### **Prior to Commencement of Construction**

2. Notify in writing all contractors and sub-contractors of the general requirements of the Shoreline Master Program (SSMP 23.60.152), and shall be subject to the following:
  - The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards, and regulations of water quality management programs and regulatory agencies.
  - Best Management Practices shall be employed during the proposed over-water work as necessary to keep debris and deleterious material out of the water. The contractor shall include on the plans a written description of the BMPS that will be used during the proposed work.
  - An emergency containment plan and procedures shall be developed for all toxic material that will be kept on site. All necessary equipment for containment and clean-up of this toxic material shall be stocked on the site. A sufficient number of personnel that will be on-site during construction shall be trained in the proper implementation of this plan.
  - Equipment for the transportation, storage, handling and application of oil, chemicals, or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of this material into the water.

#### **During Construction**

3. In order to further mitigate the noise impacts during demolition and construction, the owner(s) and/or responsible party(s) shall limit the hours of demolition and construction to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. (Work would not be permitted on the following holidays: New Years Day, Martin Luther King Jr.'s Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day following



Thanksgiving Day and Christmas Day.) This condition may be modified by the Department to permit work of an emergency nature or to allow low noise interior work after the shells of the structure are enclosed. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

4. The owner(s), builder(s), or responsible party(s) shall follow the Best Management Practices and the Emergency Containment plans developed to prevent debris and other deleterious material from entering the water during construction.
  - a. If floating debris enters the water during the proposed work this debris shall be removed immediately and stored until it can be disposed of at an appropriate upland facility.
  - b. If heavy (sinking) debris enters the water during the proposed work the location of the debris shall be documented in a log that is kept on site for the duration of the construction work. When construction is complete a diver shall retrieve all debris that has entered the water and sunk during the proposed work.
5. Equipment using oil, gasoline, or diesel used on site shall be checked daily for evidence of leakage, if evidence of leakage is found, further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
6. No treated wood shall be used in the decking material.
7. If treated wood is proposed for other structures, this wood shall be professionally treated and completely cured using the best management practices developed by the Western Wood Preservers Institute (<http://www.wwpinstitute.org/>) before this wood is used for this project.
8. Equipment for the transportation, storage, handling and application of oil, chemicals, or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of this material into the water.

For the Life of the Project

9. Standard Best Management Practices (BMPs) (such as using secondary receptacle containers when handling toxic material so that any spilled material is contained in the second receptacle rather than entering the water and using toxic material so that none of this material enters the water) shall be used to ensure that no petroleum products, other toxic substances, including household chemicals, herbicides pesticides, chemical fertilizers, miscellaneous debris and/or other deleterious materials are allowed to enter or leak into the water.

Signature: (signature on file) Date: July 14, 2005  
Tamara Garrett, Land Use Planner